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9
10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 EVERBRIDGE, INC., a California
13 corporation,

14 Plaintiff,

15 vs.

16 CONVERGENT MOBILE, INC., a
17 California corporation,

18 Defendant.

CV10 1302
1
CASE NO.

**COMPLAINT FOR SERVICE
MARK INFRINGEMENT, UNFAIR
COMPETITION, USE OF FALSE
REPRESENTATIONS AND
STATEMENTS IN COMMERCE,
AND UNJUST ENRICHMENT**

22 Plaintiff Everbridge Productions ("Everbridge"), by its undersigned counsel,
23 hereby brings the following Complaint against Defendant and avers as follows:
24

25 **NATURE OF THE CLAIMS**

26 1. This is an action for infringement of federally protected service marks under
27 Section 32(1) and 43(a) of the Lanham Act, 15 U.S.C. §§ 1114(1) and 1125(a); for the

1 use of false designations and representations in commerce and unfair competition in
2 violation of Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a); for statutory unfair
3 competition under Cal. Bus. & Prof. Code § 17200, *et seq.*; for common law unfair
4 competition and service mark infringement; and for unjust enrichment.

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6 **PARTIES**

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8 2. Everbridge, Inc. ("Plaintiff" or "Everbridge") is a California corporation with
9 its principal place of business at 505 N. Brand Blvd., Suite 700, Glendale, CA.

10 3. Upon information and belief, Defendant Convergent Mobile, Inc.
11 ("Defendant" or "Convergent") is a California corporation with its principal place of
12 business at 870 Knight Street, Sonoma CA and at all relevant times as done and now
13 does, and has transacted and now transacts business in this District.

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15 **JURISDICTION AND VENUE**

16 4. This Court has jurisdiction over the subject matter of this action pursuant to
17 the Lanham Act, 15 U.S.C. §1121, and 28 U.S.C. §§1331 and 1338, and under the
18 principles of supplemental jurisdiction pursuant to 28 U.S.C. §1367.

19 5. This Court has personal jurisdiction over the Defendant because Defendant
20 solicits, transacts and does business within this judicial District. Accordingly, venue is
21 proper in this District under 28 U.S.C. §1391(b) and because a substantial part of the
22 events or omissions giving rise to the claim occurred in this District.

23

24 **FACTS COMMON TO ALL CLAIMS**

25 6. At all relevant times, Everbridge, formerly 3N Global, Inc., has been in the
26 business of providing products and services related to emergency and incident
27 notification and communication.

7. Everbridge is the owner of the federally registered service mark AWARE® for "outcall mass notification services through all communication devices, including telephone, email, text messaging, instant messaging, desktop, fax, smartphones, and PDAs," registered under Reg. No. 3712080 for these services (the "AWARE® Mark").

8. The AWARE® Mark for Everbridge's services is inherently distinctive and has acquired secondary meaning.

9. Everbridge also has been the owner since 2005 of the mark INSTACOM for outcall mass notification services through all communication devices, and has been the owner of and used the domain name www.instacom.com (the "INSTACOM Mark") for more than five years.

10. The INSTACOM Mark for Everbridge's services is inherently distinctive and has acquired secondary meaning.

11. The INSTACOM and AWARE® Marks, through advertising, promotion and the sale of the services under these marks are well-known service marks for these services exclusively associated by the trade and the relevant public with Everbridge in and outside of this District. The INSTACOM and AWARE® Marks represent enormous goodwill, which belongs exclusively to Everbridge, and are valuable assets of Everbridge.

Defendant's Offensive and Unlawful Acts

12. Defendant is in the business of providing mobile communication products and services, including notification and communication services that compete with Everbridge's products and services.

13. In or about April 2009, Everbridge (then 3N Global, Inc.) discovered that Defendant had started using the service mark INSTACOM for notification services that were directly competitive with Everbridge's INSTACOM services. Everbridge sent a

1 cease and desist letter dated April 24, 2009 to the then CEO of Convergent demanding
2 that Convergent cease and desist using the infringing INSTACOM mark.

3 14. On or about April 24, 2009, Defendant's CEO responded that Convergent
4 would permanently cease using the INSTACOM mark and would begin using another
5 mark.

6 15. On or about April 24, 2009, Everbridge began using the AWARE® Mark.

7 16. In late May 2009, well after Everbridge had begun using the AWARE® Mark
8 and conspicuously displaying it on its website and marketing materials, Everbridge
9 discovered that Defendant had changed the infringing INSTACOM Mark to
10 INSTAWARE, thus combining the INSTA- portion of Everbridge's INSTACOM Mark
11 with Everbridge's AWARE® Mark.

12 17. Everbridge has demanded that Defendant cease this unlawful activity but
13 Defendant has refused to do so.

14 18. Everbridge subsequently learned that in January 2010 Defendant had filed
15 with the United States Patent and Trademark Office an application to register
16 INSTAWARE for outcall notification services, and in doing so falsely claimed to the US
17 Patent and Trademark that it first used the INSTAWARE mark in commerce in March
18 2009.

19 19. Defendant's use of the INSTAWARE Mark and its attempt to federally
20 register that Mark for its directly competitive notification and communication services is
21 causing Plaintiff irreparable harm for which it has no adequate remedy at law.

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20. Defendant's infringing and unfairly competitive activities as alleged herein are willful and intentional. Defendant had knowledge (a) of Everbridge's business, (b) of Everbridge's INSTACOM mark, (c) of Everbridge's federally registered AWARE® Mark, and (d) that it had been charged with infringement of Everbridge's INSTACOM Mark and had agreed to choose another mark that would not violate Everbridge's exclusive rights. Notwithstanding all of the foregoing, it intentionally and unjustifiably has adopted a mark containing Everbridge's AWARE® Mark combined with the INSTA-portion of Everbridge's INSTACOM Mark.

FIRST CLAIM FOR RELIEF

(Service Mark Infringement under Section 32(1) of the Lanham Act)

21. Plaintiff Everbridge hereby realleges and incorporates all previous allegations of this Complaint.

22. Defendant's use of the INSTAWARE mark for its competitive services creates the likelihood that members of the relevant public will be confused into mistakenly believing that Defendant's services offered under the INSTAWARE mark is in some manner associated or connected with Everbridge and its services offered under the AWARE® Mark.

23. Defendant's use of the INSTAWARE mark violates Everbridge's exclusive rights under Section 32(1) of the Lanham Act, 15 U.S.C. §1114(1) in the federally registered AWARE® Mark.

24. Defendant's conduct complained of herein was and is intentional and willful. Defendant's conduct complained of herein has damaged Everbridge and, unless enjoined, will continue to damage and cause irreparable injury to Everbridge's reputation and goodwill. Everbridge has no adequate remedy at law.

SECOND CLAIM FOR RELIEF

(Service mark Infringement under Section 43(a) of the Lanham Act)

24. Plaintiff Everbridge hereby realleges and incorporates all previous allegations of this Complaint.

25. Defendant's use of the INSTAWARE mark for its competitive services creates the likelihood that members of the relevant public will be confused into mistakenly believing that Defendant's services offered under the INSTAWARE mark is in some manner associated or connected with Everbridge and/or the services associated with Everbridge's INSTACOM and AWARE® Marks.

26. Defendant's acts as complained of herein constitute service mark infringement of Everbridge's INSTACOM and AWARE® Marks under Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

27. Defendant's conduct complained of herein was and is intentional and willful. Defendant's conduct complained of herein has damaged Everbridge and, unless enjoined, will continue to damage and cause irreparable injury to Everbridge's reputation and goodwill. Everbridge has no adequate remedy at law.

THIRD CLAIM FOR RELIEF

(False Designations of Origin and False Representations in Commerce under Section 43(a) of the Lanham Act)

28. Everbridge hereby realleges and incorporates all previous allegations of this Complaint.

29. Defendant's use of the INSTAWARE mark per se and coupled with its prior infringing use of the INSTACOM mark constitutes the use of false designations in commerce and false representations in commerce in that members of the relevant public will be confused into mistakenly believing that Defendant's services offered under the INSTAWARE mark are in some manner associated with Everbridge and/or the services associated with Everbridge's INSTACOM and AWARE® Marks.

1 30. The acts committed by Defendants as described herein are in violation of
2 Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

3 31. Defendant's unlawful acts are and were intentional and willful and have
4 damaged Everbridge and, unless enjoined, will continue to damage and cause irreparable
5 injury to Everbridge. Everbridge has no adequate remedy at law.

FOURTH CLAIM FOR RELIEF

(Federal Unfair Competition under Section 43(a) of the Lanham Act)

10 32. Everbridge hereby realleges and incorporates all previous allegations of this
11 Complaint.

12 33. Defendant's unlawful conduct as complained of herein constitutes unfair
13 competition in that it creates the likelihood that members of the relevant public will be
14 confused into mistakenly believing that the services offered by Defendant under the
15 INSTAWARE mark are in some manner associated or connected with Everbridge and/or
16 the services associated with Everbridge's INSTACOM and AWARE® Marks.

17 34. Defendant's conduct as complained of herein constitutes unfair competition
18 under Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

19 35. Defendant's conduct complained of herein was and is intentional and willful.
20 Defendant's conduct complained of herein has damaged Everbridge and, unless enjoined,
21 will continue to damage and cause irreparable injury to Everbridge's reputation and
22 goodwill. Everbridge has no adequate remedy at law.

FIFTH CLAIM FOR RELIEF

(Common Law Unfair Competition and Service Mark Infringement)

36. Everbridge hereby realleges and incorporates all previous allegations of this Complaint.

1 37. Defendant's unlawful conduct as complained of herein constitutes unfair
2 competition and service mark infringement under the common law of the State of
3 California in that it creates the likelihood that members of the relevant public will be
4 confused into mistakenly believing that the services offered by Defendant under the
5 INSTAWARE mark are in some manner associated or connected with Everbridge and/or
6 the services associated with the INSTACOM and AWARE® Marks.

7 38. Defendant's conduct as complained of herein constitutes unfair competition
8 and service mark infringement under the common law of the State of California.

9 39. Defendant's conduct complained of herein was and is intentional and willful.
10 Defendant's conduct complained of herein has damaged Everbridge and, unless enjoined,
11 will continue to damage and cause irreparable injury to Everbridge's reputation and
12 goodwill. Everbridge has no adequate remedy at law.

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SIXTH CLAIM FOR RELIEF

15 **(Statutory Unfair Competition under Cal. Bus. & Prof. Code § 17200, *et seq.*)**

16 40. Everbridge hereby realleges and incorporates all previous allegations of this
17 Complaint.

18 41. Defendant's conduct as alleged herein is likely to cause injury to
19 Everbridge's reputation which results in Defendant unfairly competing with Plaintiff in
20 violation of California Business and Profession Code §17200, *et seq.* Defendant's
21 conduct constitutes unlawful, unfair and fraudulent business practices under Section
22 17200.

23 42. Defendant's conduct as alleged herein has injured Everbridge and unless
24 enjoined will continue to cause great, immediate and irreparable injury to Everbridge.

25 43. Defendant's acts of infringement, use of false designation of origin, use of
26 false and misleading representations, and unfair competition have caused, and will
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1 continue to cause, irreparable harm and injury to Everbridge unless restrained by this
2 Court.

3 44. Plaintiff is entitled to an order pursuant to Section 17203 of the California
4 Business and Professions Code awarding to Everbridge any money or property which
5 may have been acquired by Defendant by means of its acts constituting unfair
6 competition, including, but not limited to, disgorgement of any benefits conferred upon
7 Defendant as a result of its violations of law.

8

9 **SEVENTH CLAIM FOR RELIEF**

10 **(Unjust Enrichment)**

11 45. Everbridge hereby realleges and incorporates all previous allegations of this
12 Complaint.

13 46. As a result of its unlawful conduct, Defendant has been unjustly enriched at
14 the expense of Everbridge and the law thereby implies a contract by which the Defendant
15 must pay to Everbridge the amount by which, in equity and good conscience, the
16 Defendant has been unjustly enriched at the expense of Everbridge.

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18 **PRAYER FOR RELIEF**

19 WHEREFORE, Everbridge prays:

20 A. For judgment that Defendant:

21 (1) has violated Section 32(1) of the Lanham Act;

22 (2) has violated Section 43(a) of the Lanham Act;

23 (3) has violated Cal. Bus. & Prof. Code § 14330

24 (4) has engaged in unfair competition and service mark infringement under the
25 common law of the State of California;

26 (5) has violated Cal. Bus. & Prof. Code § 17200, *et seq.*; and

1 (6) has been unjustly enriched at the expense of Everbridge.

2 B. For temporary, preliminary and permanent injunctions, restraining and
3 enjoining the Defendant, and its agents, employees, representatives, servants, successors,
4 assigns, and all those acting under their control or the control of any of the foregoing
5 persons and/or on their behalf and/or in concert with them, from continuing to use the
6 INSTAWARE Mark, and from otherwise unfairly competing with Everbridge.

7 C. That Defendant be required to pay Everbridge such damages as Everbridge
8 has sustained by reason of the aforementioned violations to the full extent provided for
9 by Sections 32(1) and 43(a) of the Lanham Act, and that those damages be trebled
10 pursuant to 15 U.S.C. §1117 in view of the willfulness of Defendant's actions.

11 D. Directing that Defendant withdraw with prejudice U.S. Patent and
12 Trademark Office application Serial No. 77911425 for the mark INSTAWARE.

13 E. Directing Defendant or its attorneys to file with this Court and serve upon
14 Everbridge's counsel within 30 days of entry of judgment a report in writing under oath
15 setting forth in detail the manner and form in which the Defendant has complied with the
16 requirements of the injunction and order.

17 F. That Everbridge be awarded all of Everbridge's costs in this action,
18 including Everbridge's reasonable attorneys' fees and expenses;

20 G. That Defendant be required pursuant to section 17203 of the California
21 Business and Professions Code to disgorge and turn over to Everbridge any money or
22 property which may have been acquired by Defendant by means of its acts constituting
23 unfair competition, including, but not limited to, disgorgement of any benefits conferred
24 upon Defendants as a result of its violations of law.

25 H. That Defendant pay to Everbridge the amount by which, in equity and good
26 conscience, the Defendant has been unjustly enriched at the expense of Everbridge.

I. That Everbridge be awarded such other and further relief as may be deemed just and proper by this Court.

DATED: February 22, 2010

COWAN, DEBAETS, ABRAHAMS &
SHEPPARD, LLP

By

LEPPARD, LLP

Steven M. Weinberg

Attorneys for Plaintiff
Everbridge, Inc.

1 Proof of Service
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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge John F. Walter and the assigned discovery Magistrate Judge is Paul Abrams.

The case number on all documents filed with the Court should read as follows:

CV10- 1302 JFW (PLAx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

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NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

ORIGINAL**FAXED**

Name & Address:

STEVEN M. WEINBERG
 COWAN, DEBAETS, ABRAHAMS & SHEPPARD
 LLP
 30765 Pacific Coast Highway, Suite 411
 Malibu, California 90265

**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

EVERBRIDGE, INC., a California corporation,

CASE NUMBER

CV10 1302 JFW PLA

v.

PLAINTIFF(S)

CONVERGENT MOBILE, INC., a California
 corporation

DEFENDANT(S).

SUMMONSTO: DEFENDANT(S): CONVERGENT MOBILE, INC.

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Steven M. Weinberg, whose address is 30765 Pacific Coast Highway, Suite 411 Malibu, California 90265. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

FEB 22 2010

Dated: _____

CHRISTOPHER POWERS

By: _____

Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3).]

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself)
EVERBRIDGE, INC., a California corporation

DEFENDANTS
CONVERGENT MOBILE, INC., a California corporation

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)
COWAN, DEBAETS, ABRAHAMS & SHEPPARD LLP
30765 Pacific Coast Highway, Suite 411
Malibu, California 90265

Attorneys (If Known)
STEPHEN PEARY
P.O. Box 5608
Carefree, Arizona 85377

II. BASIS OF JURISDICTION (Place an X in one box only.)

1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)
 2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant.)

| | | | | |
|---|----------------------------|----------------------------|----------------------------|---------------------------------------|
| Citizen of This State | PTF | DEF | PTF | DEF |
| | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify): 6 Multi-District Litigation 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check 'Yes' only if demanded in complaint.)CLASS ACTION under F.R.C.P. 23: Yes No

□ MONEY DEMANDED IN COMPLAINT: \$

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
15 U.S.C. § 1051 et seq.

VII. NATURE OF SUIT (Place an X in one box only.)

| OTHER STATUTES | CONTRACT | TORTS | TORTS | PRISONER PETITIONS | LABOR |
|--|--|---|--|---|--|
| <input type="checkbox"/> 400 State Reapportionment | <input type="checkbox"/> 110 Insurance | <input type="checkbox"/> 310 Airplane | <input type="checkbox"/> 370 Other Fraud | <input type="checkbox"/> 510 Motions to Vacate Sentence | <input type="checkbox"/> 710 Fair Labor Standards Act |
| <input type="checkbox"/> 410 Antitrust | <input type="checkbox"/> 120 Marine | <input type="checkbox"/> 315 Airplane Product Liability | <input type="checkbox"/> 371 Truth in Lending | <input type="checkbox"/> 520 Habeas Corpus | <input type="checkbox"/> 720 Labor/Mgmt. Relations |
| <input type="checkbox"/> 430 Banks and Banking | <input type="checkbox"/> 130 Miller Act | <input type="checkbox"/> 320 Assault, Libel & Slander | <input type="checkbox"/> 380 Other Personal Property Damage | <input type="checkbox"/> 530 General | <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act |
| <input type="checkbox"/> 450 Commerce/ICC Rates/etc. | <input type="checkbox"/> 140 Negotiable Instrument | <input type="checkbox"/> 330 Fed. Employers' Liability | <input type="checkbox"/> 385 Property Damage | <input type="checkbox"/> 535 Death Penalty | <input type="checkbox"/> 740 Railway Labor Act |
| <input type="checkbox"/> 460 Deportation | <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment | <input type="checkbox"/> 340 Marine | <input type="checkbox"/> 390 Product Liability | <input type="checkbox"/> 540 Mandamus/Other | <input type="checkbox"/> 750 Other Labor Litigation |
| <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations | <input type="checkbox"/> 151 Medicare Act | <input type="checkbox"/> 345 Marine Product Liability | <input type="checkbox"/> 422 Appeal 28 USC 158 | <input type="checkbox"/> 550 Civil Rights | <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act |
| <input type="checkbox"/> 480 Consumer Credit | <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) | <input type="checkbox"/> 350 Motor Vehicle | <input type="checkbox"/> 423 Withdrawal 28 USC 157 | <input type="checkbox"/> 555 Prison Condition | <input type="checkbox"/> 800 PROPERTY RIGHTS |
| <input type="checkbox"/> 490 Cable/Sat TV | <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits | <input type="checkbox"/> 355 Motor Vehicle Product Liability | <input type="checkbox"/> 441 Voting | <input type="checkbox"/> 610 Agriculture | <input type="checkbox"/> 820 Copyrights |
| <input type="checkbox"/> 810 Selective Service | <input type="checkbox"/> 160 Stockholders' Suits | <input type="checkbox"/> 360 Other Personal Injury | <input type="checkbox"/> 442 Employment | <input type="checkbox"/> 620 Other Food & Drug | <input type="checkbox"/> 830 Patent |
| <input type="checkbox"/> 850 Securities/Commodities/ Exchange | <input type="checkbox"/> 190 Other Contract | <input type="checkbox"/> 362 Personal Injury-Med Malpractice | <input type="checkbox"/> 443 Housing/Accommodations | <input type="checkbox"/> 625 Drug Related Seizure of Property | <input checked="" type="checkbox"/> 840 Trademark |
| <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 | <input type="checkbox"/> 195 Contract Product Liability | <input type="checkbox"/> 365 Personal Injury-Product Liability | <input type="checkbox"/> 444 Welfare | <input type="checkbox"/> 850 21 USC 881 | <input type="checkbox"/> 861 HIA (1395f) |
| <input type="checkbox"/> 890 Other Statutory Actions | <input type="checkbox"/> 196 Franchise | <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability | <input type="checkbox"/> 445 American with Disabilities - Employment | <input type="checkbox"/> 630 Liquor Laws | <input type="checkbox"/> 862 Black Lung (923) |
| <input type="checkbox"/> 891 Agricultural Act | <input type="checkbox"/> 210 Land Condemnation | <input type="checkbox"/> 369 IMMIGRATION | <input type="checkbox"/> 446 American with Disabilities - Other | <input type="checkbox"/> 640 R.R. & Truck | <input type="checkbox"/> 863 DIWC/DIWW (405(g)) |
| <input type="checkbox"/> 892 Economic Stabilization Act | <input type="checkbox"/> 220 Foreclosure | <input type="checkbox"/> 462 Naturalization Application | <input type="checkbox"/> 447 Other Civil Rights | <input type="checkbox"/> 650 Airline Regs | <input type="checkbox"/> 864 SSID Title XVI |
| <input type="checkbox"/> 893 Environmental Matters | <input type="checkbox"/> 230 Rent Lease & Ejectment | <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee | <input type="checkbox"/> 448 Other | <input type="checkbox"/> 660 Occupational Safety /Health | <input type="checkbox"/> 865 RSI (405(g)) |
| <input type="checkbox"/> 894 Energy Allocation Act | <input type="checkbox"/> 240 Torts to Land | <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 449 Other | <input type="checkbox"/> 690 Other | <input type="checkbox"/> 870 FEDERAL TAX SUITS Taxes (U.S. Plaintiff or Defendant) |
| <input type="checkbox"/> 895 Freedom of Info. Act | <input type="checkbox"/> 245 Tort Product Liability | | | | <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609 |
| <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice | <input type="checkbox"/> 290 All Other Real Property | | | | |
| <input type="checkbox"/> 950 Constitutionality of State Statutes | | | | | |

FOR OFFICE USE ONLY: Case Number: CV10 1302

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes
If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply)

- A. Arise from the same or closely related transactions, happenings, or events; or
- B. Call for determination of the same or substantially related or similar questions of law and fact; or
- C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

| | |
|---------------------------------------|---|
| County in this District: [*] | California County outside of this District; State, if other than California; or Foreign Country |
| Los Angeles County | |

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

| | |
|---------------------------------------|---|
| County in this District: [*] | California County outside of this District; State, if other than California; or Foreign Country |
| | Sonoma County |

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

| | |
|---------------------------------------|---|
| County in this District: [*] | California County outside of this District; State, if other than California; or Foreign Country |
| Los Angeles County | |

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved.

X. SIGNATURE OF ATTORNEY (OR PRO PER): Oral Date 02/22/10

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

| Nature of Suit Code | Abbreviation | Substantive Statement of Cause of Action |
|---------------------|--------------|--|
| 861 | HIA | All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b)) |
| 862 | BL | All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923) |
| 863 | DIWC | All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g)) |
| 863 | DIWW | All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g)) |
| 864 | SSID | All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended. |
| 865 | RSI | All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g)) |